IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

Crl.MC.No. 2348 of 2007()

AGAINST THE ORDER DATED 26/06/2007 IN CMP 2384 2007 IN CC.653/2003 of JUDL.MAGISTRATE OF FIRST CLASS-II, CHERTHALA

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PETITIONER: ACCUSED

P.C.SUNIL, S/O CHAKRAPANI,
AGED 43, PULIKKAPARAMBIL HOUSE,
NEAR SYRIAN CHURCH, PALLURUTHY, ERNAKULAM.

BY ADV. SRI.VARGHESE C.KURIAKOSE
SRI.PRAVEEN K. JOY

RESPONDENTS: STATE & COMPLAINANT

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1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

2. AUGUSTINE M.J., MUKKATH HOUSE,
AROOR P.O., CHERTHALA.

BY PUBLIC PROSECUTOR ADV.SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 25/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No. 2348 Of 2004

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Dated this the 25th day of July, 2007

ORDER

The petitioner is an accused in a prosecution under Sec.420 IPC. The trial has reached the fag end now. It has been filed sometime in 2003, it is submitted. The crux of the allegations is that the accused person had issued a cheque for Rs.3 lakhs to the complainant on an account which had been closed by then.

2. What is the defence in the case? Does the accused admit the signature in the cheque? It is submitted that the signature is partly admitted. The petitioner wanted the cheque to be sent to the expert. It was sent. The expert thus had opportunity to once examine the cheque. As necessary documents were not made available, a firm opinion was not expressed, it is submitted.

3. The petitioner thereafter wanted the cheque to be sent to the expert again. The learned Magistrate by the impugned order turned down the said request. The petitioner claims to be aggrieved by Annexure 4 order, under which the said prayer was rejected.

4. I must alertly remind myself of the nature,quality and contours of the jurisdiction which I am called upon to invoke and

exercise. The jurisdiction which is sought to be invoked is the extraordinary inherent jurisdiction available under Sec.482 Cr.P.C. It is by now trite that such jurisdiction has to be invoked sparingly and in exceptional cases only in aid of justice. Such jurisdiction is certainly not to be invoked as a matter of course. Sufficient satisfactory and compelling reasons must be shown to exist to justify the invocation of such powers against the interlocutory orders in the course of the proceedings.

5. The law frowns upon attempts to challenge interlocutory orders before the superior Courts during the pendency of the prosecution. This policy of the law is clearly reflected in Sec.397(2) Cr.P.C. which proscribes revisional challenge against interlocutory orders. What is impermissible under Sec.397(2) cannot normally be attempted to be attained by claiming invocation of powers under Sec.482 Cr.P.C. Not that in an exceptional case when the conscience of the Court is satisfied that the interest of justice do warrant invocation of such powers, they cannot be invoked, but certainly sufficient and satisfactory reasons must be shown to exist. The petitioner was given an opportunity earlier to get the cheque examined by the expert. Evidently and obviously, all necessary documents to facilitate such examination, by the expert, were not made available

to the expert. I am certainly of the view that this is not a fit case where powers under Section 482 Cr.P.C. can or ought to be invoked in favour of the petitioner.

6. In the result this Crl.M.C. is dismissed. I may hasten to observe that the dismissal of this petition will not fetter the rights of the petitioner to raise all appropriate contentions before the learned Magistrate or to raise all available grounds before the Appellate or Revisional courts including the challenge against the impugned order.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE